

LAND SURVEYORS SECTION MEETING

MINUTES

The Land Surveyors Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on November 14, 2002, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present:

Doyle B. Allen
John M. Elkin, Jr.
John R. McAden

Staff present for all or part of the meeting were:

Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director of Regulatory Programs
Mark N. Courtney, Assistant Director
Marian H. Brooks, Regulatory Board Administrator
Susan Garbini, Legal Assistant
Sharon M. Sweet, Examinations Administrator
Tonie Robinson, Examinations Supervisor

No representative of the Office of the Attorney General was present for the meeting.

Mr. Allen, Chair, called the meeting to order at 9:03 a.m.

Call to Order

Mr. Elkin moved at approve the agenda as written. Mr. McAden seconded the motion which was unanimously approved by members: Allen, Elkin, McAden.

**Approval of
Agenda**

Mr. Elkin moved to approve the minutes from the July 24, 2002, Section meeting as amended. Mr. McAden seconded the motion which was unanimously approved by members: Allen, Elkin, McAden.

Approval of Minutes

Public Comment Period - No public comments were made to the Section members.

**Public Comment
Period**

No respondent, counsel for respondent or other representative, or participant without an appointment was present to speak before the Section.

Call for Respondent

In reference to **File Number 2001-03174, David G. Yolton**, the Section members reviewed the Consent Order as seen and agreed to by Mr. Yolton. Mr. McAden indicated that he knows Mr. Yolton and works with him, but affirmed that he could be fair and impartial in this matter. Mr. McAden moved to recommend that the Board accept the Consent Order, which cites a violation of 18 VAC 10-20-370(B)(4) of the Board's 1997 regulations (Count I) and 18 VAC 10-20-370(C)(2)(c) of the Board's 1997 regulations (Count II). For these violations, monetary penalties of \$500 (\$250 per count) and Board costs of \$300 are recommended for a total of \$800. Additionally, Mr. Yolton agrees to go out in the field and set the permanent monuments at all corners and changes of direction, and agrees to adhere, at all times henceforth, to the minimum standards of the Board's regulations. Mr. McAden further moved to recommend that failure to pay the penalty, the costs, or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Mr. Yolton's license until such time as there is compliance with all terms of this Order. Mr. Elkin seconded the motion which was unanimously approved by members Elkin and McAden. As the presiding Board member at the Informal Fact-Finding Conference, Mr. Allen was not present during the discussion or vote.

File Number 2001-03174, David G. Yolton

The Section members were provided with information from Mr. Courtney and Ms. O'Neal regarding the review of disciplinary and application files at Section meetings. Mr. Courtney indicated that due to Enforcement issues related to scheduling Informal Fact-Finding Conferences, budget constraints, and statutory requirements, the Sections of the Board need to consider eliminating review of disciplinary and application files at the Section meetings. The Section members were in favor of the concept.

Discussion of Processing of Disciplinary and Application Files

In reference to **File Number 2002-03700, Jonathan H. Fleener**, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcript and exhibits, and summary and recommendation of the presiding Board member. Mr. Elkin moved to recommend to the Board to accept the summary as to the facts but reject the recommendation of the presiding Board member and deny Mr. Fleener's application for a land surveyor license by comity. Mr. Fleener has been given credit for seven years of verified acceptable experience while 12 years of verified acceptable experience is required, based on Mr. Fleener's education, pursuant to 18 VAC 10-20-300.6 and 18 VAC 10-20-310 of the Board's regulations. Further, Mr. Elkin noted that Mr. Fleener may continue to submit additional verifications of his experience during the three-year life of his application. Mr. McAden seconded the motion which was unanimously approved by members: Allen,

File Number 2002-03700, Jonathan H. Fleener

Elkin and McAden.

The Section members reviewed the pass rates for the Fundamentals of Land Surveying examination for the last several years. The Section members directed staff to prepare a chart of the data for review at the next Section meeting, currently scheduled for February 11, 2003.

Review of FLS Pass Rates

The Section members were provided with information regarding nominations for the National Council of Examiners for Engineering and Surveying (NCEES) National Awards. After discussion, the Section members agreed by consensus to nominate Mr. Sirine, former Land Surveyors Section member, for the Distinguished Service Award.

Other Business

Mr. Courtney provided information regarding the 2003 Board Presidents Assembly to be held February 13-15, 2003, in Girdwood, Alaska. Mr. Allen indicated that he would like to attend this meeting.

The Section members were also provided with information regarding candidates for the NCEES Northeast Zone Vice President. The candidates are Craig N. Musselman, a member of the New Hampshire PE Board, and Louis A. Raimondi, of the New Jersey State Board of Professional Engineers and Land Surveyors. The Section agreed by consensus to support Mr. Raimondi in his bid for election to the position of Vice President.

Mr. Courtney notified the Section members that Ms. Rowley is no longer counsel to the Board, as she has left the Office of the Attorney General. Ms. Ellen Coates is the new counsel to the Board. Additionally, Mr. Courtney indicated that due to recent budget cuts, services provided to the Board from the Office of the Attorney General would be decreased.

Mr. Courtney indicated that the draft regulations prepared by the Regulatory Review Committee are not available for review during the current cycle of Section meetings; therefore, the draft regulations will be reviewed by the Sections during the first cycle of meetings in 2003.

The Section members discussed the procedures for having a study conducted by the Board for Professional and Occupational Regulation regarding photogrammetry. Ms. Ryals indicated that the Section members would need to prepare information that shows justification for the study for consideration by the Board. After discussion, Mr. Elkin moved that this topic be placed on the APELSCIDLA Board agenda for the December 11, 2002, meeting so that the Section could ask that the Board request such a

Discussion of Request for Photogrammetry Study by BPOR

study from the Board for Professional and Occupational Regulation. Mr. McAden seconded the motion which was unanimously approved by members: Allen, Elkin, McAden.

Mr. Elkin moved to add an item to the agenda entitled 12A, Review of Examination Items. Mr. McAden seconded the motion which was unanimously approved by members: Allen, Elkin, McAden.

Addition of Agenda Item

At 10:32 a.m., Mr. McAden moved that the meeting be recessed and that the public body immediately reconvene in closed meeting for the purpose of consultation and/or briefings by staff members pertaining to examination issues within the jurisdiction of the Board as permitted by § 2.2-3711.A.11 of the Code of Virginia. This motion was made with respect to the matter identified as 12A, Review of Examination Items. Mr. Elkin seconded the motion which was unanimously approved by members: Allen, Elkin, McAden. The following non-members were in attendance to reasonably aid the consideration of the topic: Sharon Sweet and Tonie Robinson, as they are knowledgeable of the examination items.

Closed Meeting

At 11:10 a.m., Mr. Elkin moved to recess the closed meeting and immediately reconvene in open meeting. Mr. McAden seconded the motion which was unanimously approved by members: Allen, Elkin, McAden.

Open Meeting

CERTIFICATION OF CLOSED MEETING

Certification of Closed Meeting

WHEREAS, the Land Surveyors Section of the APELSCIDLA Board has convened a closed meeting on this date pursuant to an affirmative recorded vote, and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the Code of Virginia requires a certification by the Land Surveyors Section of the APELSCIDLA Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Land Surveyors Section of the APELSCIDLA Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification applies, and (ii) only such business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Land Surveyors Section of the APELSCIDLA Board.


VOTE: 3-0-0
AYES: Allen, Elkin, McAden
NAYS: 0
ABSENT: 0


Conflict of Interest forms were completed by all members present.

Conflict of Interest
Forms

There being no further business, the meeting was adjourned at 11:14 a.m.

Adjourn


Doyle B. Allen, Chair


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records